IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 98 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KESHARISINH VAJESINH MAKWANA

Versus

BABUBHAI SANKALCHAND BHATIA

Appearance:

1. Civil Revision Application No. 98 of 1999

MS LILU K BHAYA for Petitioner No. 1

RULE SERVED for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 26/08/2004

ORAL JUDGEMENT

#. By filing this civil revision application under Section 115 of the Civil Procedure Code, the petitioner,

who is original claimant of Motor Accident Claim Petition No.645 of 1997, has challenged the interlocutory order passed by the Motor Accident Claim Tribunal under Section 140 of the Motor Vehicles Act.

#. The petitioner - claimant has filed the aforesaid claim petition for getting compensation in view of the vehicular accident in which he has received injuries. The said application has been submitted under Section 140 of the Motor Vehicles Act on the ground that the petitioner has received serious injuries on his skull and other parts of the body. He has prayed that since the original claim petition is likely to take some time for adjudication, during the pendency of the main petition, claimant may be awarded Rs.25,000/- towards no fault liability with 18% interest. The Tribunal by its order below Exh.3 has rejected the said application by observing that, prima facie, the injured has no fracture injury, and, therefore, such injury may not fall within the purview of Section 142 of the Motor Vehicles Act. It is the aforesaid order, which is under challenge in this civil revision application.

#. In my view, since this revision application is filed against an interlocutory order, same cannot be entertained, as, it cannot be said that the Tribunal has committed any error of jurisdiction which would attract the limited jurisdiction of this Court under Section 115 of the Code of Criminal Procedure.

#. At this stage, Mr.Bhaya submitted that since the claim petition is of 1997 which is still pending for adjudication, in the interest of justice, this Court should direct the Tribunal to dispose of the same within the stipulated period especially when the petitioner has not received any interim compensation under Section 140 of the Motor Vehicles Act. In my view, request is genuine. Under the circumstances, while rejecting this revision application, which is filed against an interlocutory order, the Motor Accident Claim Tribunal, Sabarkantha at Himatnagar is directed to dispose of Motor Accident Claim Petition No.645 of 1997 at the earliest and latest by 28.2.2005 without further delay i.e. within six months from today. This direction is required to be given as the claim petition is of 1997 which is still pending. It is clarified that whatever may be the observations of the Tribunal at the time of deciding the application under Section 140 of the Motor Vehicles Act, the same may not be taken into consideration and the claim petition is to be decided on its own merits. The writ of this order be sent to the Tribunal forthwith so

that the claim petition can be decided within the stipulated time.

#. Subject to what is stated above, this revision application is rejected. Rule is discharged.

(P.B.Majmudar,J)

(pathan)